IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.02.2005

Coram:

The Honourable Mr.MARKANDEY KATJU, Chief Justice

and

The Honourable Mr.Justice D.MURUGESAN

W.A.No. 4200 of 2004
and
W.A.M.P.No. 7961 of 2004

C.Jambunathan
S/o.A.Chandrasekaran,
15, Agraharam, Puvalur,
Lalgudi Taluk,
Tiruchirapalli District,
Pin - 621 712 .... Appellant/2nd Respondent

vs.

1. The Management of Dheeran
Chinnamalai Transport Corporation Ltd.,
(now known as the Tamil Nadu
Transport Corporation, Kumbakonam)
Division-II Ltd.,
Periymilaguparai,
Tiruchirapalli - 620 001.
rep. by its Managing Director.

2. The Presiding Officer,
Labour Court,
Tiruchirapalli. ... Respondents / Petitioner & Respondent 1

Appeal filed under Clause 15 of the Letters Patent against the order passed in W.P.No.3506 of 1998 dated 14.08.2003.

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For Appellant ….
Mr.S.Prabhakaran for
Mr.K.Moorthy

J U D G M E N T

THE HONOURABLE THE CHIEF JUSTICE

This writ appeal has been filed against the impugned judgment of the learned single Judge dated 14.08.2003.

2. We have heard the learned counsel for the appellant, and have perused the records. We see no merits in this appeal.

3. The appellant was working as a Conductor in the services of the Cheran Transport Corporation from 1981 till February 1991, and thereafter, he was transferred to work under the first respondent herein. The appellant was charged for misappropriating a sum of Rs.12/- by preparing false documents. After enquiry he was found guilty, and was subsequently dismissed from service. He raised an industrial dispute. The Labour Court held that the charges framed against the appellant had been proved and even earlier the appellant had committed similar misconducts. However, the Labour Court held that the punishment was disproportionate, as his family members were dependent on him. The Labour Court directed that fresh appointment be given to the appellant.

4. The Transport Corporation filed a writ petition before this Court, which was allowed by the learned single Judge. Aggrieved against the same, the appellant has filed the present appeal.

5. It has been held by the Supreme Court in Janatha Bazar v. Secretary, Sahakari Noukarara Singh, AIR 2000 SC 3129 that once the act of misappropriation is proved, may be for a small or large amount, there is no question of showing uncalled for sympathy and reinstalling the employee in service. In the above decision, the Supreme Court relied on its earlier decision reported in Municipal Committee, Bahadurgarh v. Krishnan Behari & Ors., JT 1996 (3) SC 96 wherein it was held that in cases of misappropriation, there cannot be any other punishment other than dismissal. It was further observed by the Supreme Court that any

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sympathy shown in such cases is totally uncalled for and opposed to public interest. The amount misappropriated may be small or large, but it is the act of misappropriation that is relevant.

6. In view of the above, we do not see any merit in this writ appeal, and accordingly the same is dismissed. No costs. Consequently, W.A.M.P.No.7961 of 2004 is also dismissed.

pv/

Sd/
Asst.Registrar

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Sub Asst.Registrar

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+ 1 cc to R.K. MOORTHY, Advocate vide SR NO. 4884

Pre-delivery Judgment
in W.A.No.4200/2004

TJL (CO)

NM(11/02/2005)

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